

2013 DRAFTING REQUEST**Bill**

Received: **1/15/2014** Received By: **agary**
 Wanted: **As time permits** Same as LRB:
 For: **Gordon Hintz (608) 266-2254** By/Representing: **self**
 May Contact: Drafter: **agary**
 Subject: **Fin. Inst. - int. rates/loans** Addl. Drafters:
 Extra Copies:

Submit via email: **YES**
 Requester's email: **Rep.Hintz@legis.wisconsin.gov**
 Carbon copy (CC) to: **aaron.gary@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Payday lenders, term of loan in definition of payday loan

Instructions:

Remove the 91 day loophole for payday lenders

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	agary 1/24/2014	scalvin 2/1/2014		_____			
/P1	agary 2/19/2014		jmurphy 2/3/2014	_____	lparisi 2/3/2014		
/1		scalvin 2/20/2014	rschluet 2/20/2014	_____	mbarman 2/20/2014	srose 2/20/2014	

FE Sent For:

↳ Not
Needed

<END>

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/P1	agary 2/19/2014		jmurphy 2/3/2014	_____	lparisi 2/3/2014		
/1		scalvin 2/20/2014	rschluet 2/20/2014	_____	mbarman 2/20/2014		

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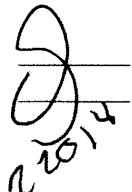
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/P1		1 sac 02/20/2014	jmurphy 2/3/2014		lparisi 2/3/2014		
FE Sent For:		1 sac 02/20/2014					

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/?	agary 1/24/2014	/PI sac 02/01/2014	/PI sac 02/01/2014	R3 2/3 [Signature] cm 2/2			

FE Sent For:

<END>



State of Wisconsin
2011 - 2012 LEGISLATURE

3 4

in
1/24



LRB-3591-000
ARG:jld:ph

-3999/P1

RMNR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

S-Note

Paul

- 1 AN ACT *to amend* 138.14 (1) (k) 1. and 2. of the statutes; **relating to:** the
2 definition of payday loan.

Analysis by the Legislative Reference Bureau

* Under current law, ~~as created in 2009 Wisconsin Act 405 (Act 405)~~ a person must be licensed by the Division of Banking (division) in the Department of Financial Institutions to originate or service a payday loan involving a Wisconsin resident. ~~Act 405 created~~ ^{are} ~~various requirements and restrictions specifically applicable to payday lenders and payday loan transactions.~~ ^{are} A "payday loan" is defined as either of the following: 1) a transaction between an individual with an account at a financial establishment and another person in which the person agrees to accept from the individual one or more checks, to hold the check or checks for a period of time before negotiating or presenting the check or checks for payment, and to loan to the individual, for a term of 90 days or less, before negotiating or presenting the check or checks for payment, an amount that is agreed to by the individual; or 2) a transaction between an individual with an account at a financial establishment and another person in which the person agrees to accept the individual's authorization to initiate one or more electronic fund transfers (EFTs) from the account, to wait a period of time before initiating the EFT or EFTs, and to loan to the individual, for a term of 90 days or less, before initiating the EFT or EFTs, an amount that is agreed to by the individual.

This bill modifies the definition of "payday loan" ^{insert ANAC} ~~Under the bill, a payday loan~~ ^{is defined as either of the following:} 1) a transaction between an individual with an account at a financial establishment and another person in which the person agrees

to make a loan to the individual, to accept from the individual one or more checks, and to hold the check or checks, and not immediately negotiate them or present them for payment, until a time period giving the individual an opportunity to repay the loan has elapsed; or 2) a transaction between an individual with an account at a financial establishment and another person in which the person agrees to make a loan to the individual, to accept the individual's authorization to initiate one or more EFTs from the account, and to wait, before initiating the EFT or EFTs, until a time period giving the individual an opportunity to repay the loan has elapsed.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 138.14 (1) (k) 1. and 2. of the statutes, as affected by 2011 Wisconsin Act 32, are amended to read:

138.14 (1) (k) 1. A transaction between an individual with an account at a financial establishment and another person, including a person who is not physically located in this state, in which the person agrees to make a loan to the individual, to accept from the individual one or more checks, and to hold the check or checks for a period of time before negotiating or presenting the check or checks, and not immediately negotiate them or present them for payment, and to loan to the individual, for a term of 90 days or less, before negotiating or presenting the check or checks for payment, an amount that is agreed to by the individual until a time period giving the individual an opportunity to repay the loan has elapsed.

2. A transaction between an individual with an account at a financial establishment and another person, including a person who is not physically located in this state, in which the person agrees to make a loan to the individual, to accept the individual's authorization to initiate one or more electronic fund transfers from the account, and to wait a period of time, before initiating the electronic fund transfer or transfers, and to loan to the individual, for a term of 90 days or less, before initiating the electronic fund transfer or transfers, an amount that is agreed to by

~~the individual until a time period giving the individual an opportunity to repay the~~
~~loan has elapsed.~~

3 SECTION 2. Nonstatutory provisions.

4 (1) This act first applies to loans made, refinanced, or consolidated on the
5 effective date of this subsection.

6 SECTION 3. Effective date.

7 (1) This act takes effect on the first day of the 3rd month beginning after
8 publication.

9 (END)

D-Note

**2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3999/P1ins
ARG:.....

1

2 **INSERT ANAL:**

(no P) to remove the requirement that, to be a payday loan, the loan term must be 90 days or less.

3

4 **INSERT 2-1:**

5 **SECTION 1.** 138.14 (1) (k) 1. of the statutes is amended to read:

6 138.14 (1) (k) 1. A transaction between an individual with an account at a
7 financial establishment and another person, including a person who is not physically
8 located in this state, in which the person agrees to accept from the individual one or
9 more checks, to hold the check or checks for a period of time before negotiating or
10 presenting the check or checks for payment, and to loan to the individual, ~~for a term~~
11 ~~of 90 days or less~~, before negotiating or presenting the check or checks for payment,
12 an amount that is agreed to by the individual.

History: 2009 a. 405; 2011 a. 32; 2011 a. 260 ss. 36, 81; 2013 a. 36.

13

14 **SECTION 2.** 138.14 (1) (k) 2. of the statutes is amended to read:

15 138.14 (1) (k) 2. A transaction between an individual with an account at a
16 financial establishment and another person, including a person who is not physically
17 located in this state, in which the person agrees to accept the individual's
18 authorization to initiate one or more electronic fund transfers from the account, to
19 wait a period of time before initiating the electronic fund transfer or transfers, and
20 to loan to the individual, ~~for a term of 90 days or less~~, before initiating the electronic
21 fund transfer or transfers, an amount that is agreed to by the individual.

History: 2009 a. 405; 2011 a. 32; 2011 a. 260 ss. 36, 81; 2013 a. 36.

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3999/P1dn

ARG: f....

5uc

-date-

Please review the attached draft carefully to ensure that it is consistent with your intent.

Under s. 138.14 (1) (k) 1. and 2. in 2009 Wisconsin Act 405, as passed by the legislature, only a loan "for a term of 90 days or less" could be a payday loan. However, the governor vetoed the phrase "for a term of 90 days or less" when he signed Act 405. In 2011 Wisconsin Act 32 (the Budget Act), the legislature added the phrase "for a term of 90 days or less" back into s. 138.14 (1) (k) 1. and 2. This bill removes the phrase, restoring the language of the 2009 statute as signed by the governor.

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "/1" draft.

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.state.wi.us

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3999/P1dn
ARG:sac:jm

February 3, 2014

Please review the attached draft carefully to ensure that it is consistent with your intent.

Under s. 138.14 (1) (k) 1. and 2. in 2009 Wisconsin Act 405, as passed by the legislature, only a loan "for a term of 90 days or less" could be a payday loan. However, the governor vetoed the phrase "for a term of 90 days or less" when he signed Act 405. In 2011 Wisconsin Act 32 (the Budget Act), the legislature added the phrase "for a term of 90 days or less" back into s. 138.14 (1) (k) 1. and 2. This bill removes the phrase, restoring the language of the 2009 statute as signed by the governor.

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "/1" draft.

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.state.wi.us

Gary, Aaron

From: Castillo, Cecely
Sent: Wednesday, February 19, 2014 3:12 PM
To: Gary, Aaron
Subject: Rep. Hintz drafts

Rep. Hintz is ready to introduce 3 bills that we had you draft the preliminary drafts for:

- ~~LRB 3779~~
- ~~LRB 3999~~
- LRB 3999

Cecely Castillo
Office of Rep. Gordon Hintz
54th Assembly District
608-266-2254
cecely.castillo@legis.wisconsin.gov



State of Wisconsin
2013 - 2014 LEGISLATURE

in
2/19



LRB-3999/2/1
ARG:sac:im

needed
2/20

RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

No changes

- gen cat*
- 1 **AN ACT** *to amend* 138.14 (1) (k) 1. and 138.14 (1) (k) 2. of the statutes; **relating**
- 2 **to:** the definition of payday loan.

Analysis by the Legislative Reference Bureau

Under current law, a person must be licensed by the Division of Banking (division) in the Department of Financial Institutions to originate or service a payday loan involving a Wisconsin resident. Various requirements and restrictions are applicable to payday lenders and payday loan transactions. A "payday loan" is defined as either of the following: 1) a transaction between an individual with an account at a financial establishment and another person in which the person agrees to accept from the individual one or more checks, to hold the check or checks for a period of time before negotiating or presenting the check or checks for payment, and to loan to the individual, for a term of 90 days or less, before negotiating or presenting the check or checks for payment, an amount that is agreed to by the individual; or 2) a transaction between an individual with an account at a financial establishment and another person in which the person agrees to accept the individual's authorization to initiate one or more electronic fund transfers (EFTs) from the account, to wait a period of time before initiating the EFT or EFTs, and to loan to the individual, for a term of 90 days or less, before initiating the EFT or EFTs, an amount that is agreed to by the individual.

This bill modifies the definition of “payday loan” to remove the requirement that, to be a payday loan, the loan term must be 90 days or less.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 138.14 (1) (k) 1. of the statutes is amended to read:

2 138.14 (1) (k) 1. A transaction between an individual with an account at a
3 financial establishment and another person, including a person who is not physically
4 located in this state, in which the person agrees to accept from the individual one or
5 more checks, to hold the check or checks for a period of time before negotiating or
6 presenting the check or checks for payment, and to loan to the individual, ~~for a term~~
7 ~~of 90 days or less~~, before negotiating or presenting the check or checks for payment,
8 an amount that is agreed to by the individual.

9 **SECTION 2.** 138.14 (1) (k) 2. of the statutes is amended to read:

10 138.14 (1) (k) 2. A transaction between an individual with an account at a
11 financial establishment and another person, including a person who is not physically
12 located in this state, in which the person agrees to accept the individual’s
13 authorization to initiate one or more electronic fund transfers from the account, to
14 wait a period of time before initiating the electronic fund transfer or transfers, and
15 to loan to the individual, ~~for a term of 90 days or less~~, before initiating the electronic
16 fund transfer or transfers, an amount that is agreed to by the individual.

17 **SECTION 3. Nonstatutory provisions.**

18 (1) This act first applies to loans made, refinanced, or consolidated on the
19 effective date of this subsection.

20 **SECTION 4. Effective date.**

1 (1) This act takes effect on the first day of the 3rd month beginning after
2 publication.

3 (END)

Barman, Mike

From: Pritzkow, Emily
Sent: Thursday, February 20, 2014 8:42 AM
To: LRB.Legal
Subject: Draft Review: LRB -3999/1 Topic: Payday lenders, term of loan in definition of payday loan

Please Jacket LRB -3999/1 for the ASSEMBLY.